IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24204 of 2004

Between:

N.Padmaji Rao S/o.late N.Venkoba Rao
Fair Price Shop Delaer, Shop No.2, Ward Nos. 4 and 20,

R/o. Dhone, Kurnool District.

.... PETITIONER

AND

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1 The Joint collector, Kurnool District.
2 The Revenue Divisional Officer Kurnool District.
3 The Mandal Revenue Officer Dhone, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of Writ of Mandamus, to declare the action of the 1st respondent in referring the matter to the 3rd respondent to submit further report without hearing the stay petition filed along with the appeal is illegal, arbitrary and contrary to the orders passed by this Hon'ble court in WP. No.21616/2004 and consequently set aside the proceedings of the 2nd respondent Rc.No.B/1495/2004, dt 7/11/2004.

Counsel for the Petitioner: MR.J.JANAKIRAMI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

ORAL ORDER:

The petitioner is a Fair Price Shop dealer. The second respondent suspended the authorization of the petitioner through proceedings dated 7-11-2004. Aggrieved thereby the petitioner preferred an appeal before the first respondent along with an application for stay. Alleging that the first respondent has not passed

any orders in the stay application, the petitioner filed W.P.No.21616 of 2004. It was disposed of on 25-11-2004 directing that if no alternative arrangement has been made, the petitioner shall be continued as dealer and that the first respondent shall pass appropriate orders on the stay petition, within two weeks from the date of the receipt of the order.

The petitioner states that the benefit of the order in the writ petition could not be availed by him since the respondents have made alternative arrangement. It is also stated that the first respondent issued notice fixing 14-12-2004 as date of hearing and on that day when the petitioner appeared through a counsel, the first respondent adjourned the matter stating that a report is called for from the Mandal Revenue Officer, the third respondent herein. No subsequent date is said to have been given. In this background, the petitioner seeks appropriate directions.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

This court did not interfere with the order of suspension, when the petitioner filed W.P.No.21616 of 2004 since the first respondent was yet to take up the application for stay. The petitioner states that on 14-12-2004 the first respondent passed an order calling for the report from the third respondent. It needs to be observed that the order of suspension itself was based on the report submitted by the Mandal Revenue Officer, and if his remarks are to be called for at this stage, that too for the disposal of the application for stay, the very purpose would be defeated.

One basic infirmity in the order of suspension is that it is not directed as a measure of pending enquiry and it is not preceded by any notice. Hence, it is violative of Clause 5(4) of the A.P. State Public Distribution System Control Order, 2001. For the foregoing reasons, the order of suspension dated 7-12-2004 shall remain stayed till the first respondent dispose of the appeal, and the petitioner shall be entitled to function as a dealer.

With the above directions the Writ Petition is disposed of. There shall be no order as to costs.

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L. Narasimha Reddy, J.

28th December, 2004

Note: CC in 3 days

B/o

Js.

To

1 The Joint collector, Kurnool District.
2 The Revenue Divisional Officer Kurnool District.
3 The Mandal Revenue Officer Dhone, Kurnool District.

4 Two CCs to G.P for Civil Supplies, High Court of A.P. Buildings, Hyderabad (OUT)

5 Two CD Copies